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COMMITTEE ON THE RIGHTS OF THE CHILD

Sixteenth session

SUMMARY RECORD (PARTIAL)* OF THE 406th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 26 September 1997, at 10 a.m.

Chairperson: Miss MASON

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* No summary record was prepared for the rest of the meeting.

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The meeting was called to order at 10.10 a.m.

COOPERATION WITH OTHER UNITED NATIONS BODIES, SPECIALIZED AGENCIES AND OTHER COMPETENT BODIES (agenda item 7)

1. The CHAIRPERSON said the fact that the Committee had functioned so well since its establishment was to a great extent due to the support it had received from United Nations specialized agencies and other bodies, and that consequently representatives of those agencies and bodies were invited to inform members of the Committee at each of its sessions of new developments in their respective areas of competence and to indicate whether, in their opinion, the Committee was on the right track or whether it should review its activities.

2. Mr. PICARD (International Labour Organization) said that the Committee's recommendations relevant to ILO's mandate were systematically transmitted to its field offices and technical departments so that they could be taken into consideration during their discussions with Governments. The impact of those recommendations were already measurable since in a number of cases Convention No. 138 concerning the Minimum Age for Admission to Employment had been ratified; there had been five such ratifications since the beginning of 1997 as a result of the campaign launched by the Director-General since 1995 to promote the ratification of ILO's basic conventions as well as the action taken by the Committee which, during its examination of the implementation of article 32 of the Convention on the Rights of the Child, invariably requested Governments to envisage ratification of Convention No. 138. Cooperation between the Committee and ILO had therefore already produced extremely positive results, despite the fact that such cooperation was still on a modest scale, being confined to persuasion not entailing the mobilization of large resources.

3. Referring to the proposed convention on the immediate elimination of all extreme forms of child labour, he recalled that the Committee at its thirteenth session had examined the questionnaire and the report which had been transmitted to Governments by ILO. Over 115 States - a particularly large number - had replied to the questionnaire and several had provided extensive answers, thereby indicating their interest in efforts to combat extreme forms of child labour. The replies to the questionnaires had been processed and was to be the subject of a report that would be transmitted to States as well as to the Committee. Draft conclusions to accompany the report had been drawn up and would be examined by the International Labour Conference at its June 1998 session. What was available at the present time was the draft text of five articles of the proposed convention and about 15 paragraphs of recommendations, all of which had been drawn up in the light of most of the Committee's proposals. However, one aspect that it had been impossible to take into consideration for technical reasons was the participation of children. He explained that ILO had encountered a certain amount of hostility on the part of some States and, during the International Labour Conference, would try to revert to the matter so that not only the interests but also the opinions of children concerning work could be taken into account. The Convention on the Rights of the Child was nevertheless explicitly mentioned in

the draft, together with certain other international instruments. The document in question would be communicated to the Committee at the latest before the end of its next session.

4. He noted that the number of States contributing to the International Programme on the Elimination of Child Labour (IPEC) was increasing, as was the number of States affected by the problem. In fact, the Swedish Minister of Labour had recently announced that five other countries intended to contribute to IPEC and to support a number of activities at present being carried out in that context. The report of IPEC's Steering Committee, containing an evaluation of the various projects undertaken, would also be transmitted to the Committee.

5. The CHAIRPERSON asked whether ILO had any criticism to make concerning its cooperation with the Committee or wished to have it extended to cover other areas.

6. Mr. PICARD (International Labour Organization) said that an answer to that question might require an assessment of the situation by both sides: the Committee could specify what it expected of the specialized agencies and in what areas they should cooperate with it, whereas the agencies and other bodies could indicate what they expected of the Committee. In that way means of narrowing the gap between expectations and realizations could be studied. A meeting devoted to the subject could be held at ILO in order to draw up a more detailed balance sheet, because discussions of cooperation in their present form were confined to the presentation of information, without any possibility of in-depth analysis.

7. Mr. RABAH thought it would be useful if, between the Committee's sessions, ILO could transmit up-to-date information on the extent of child labour and on any abuses in countries whose reports were to be examined by members of the Committee so that they could have an idea of the situation and address pertinent questions to the delegations of States parties if the information given in their reports was inadequate. To that end, ILO could request such information from its field offices, particularly in the context of its important and ambitious project aimed at eliminating child labour.

8. Mrs. PALME agreed with Mr. Rabah that it would be useful to have examples, supported by investigations, of what countries were or were not doing in the area of child labour so as to enable members of the Committee to counter denials by delegations with facts. ILO, with its extensive facilities, should be in a position to communicate that sort of information to the Committee.

9. Mr. KOLOSOV, noting that cooperation between the Committee and ILO was satisfactory, said that ILO had made a major contribution to the formulation of guidelines for the preparation of periodic reports and was gratified that it was almost always represented in the pre-sessional working group which it provided with pertinent information concerning both the negative as well as positive aspects of child labour in the countries being considered. However, he had the impression that, in ILO's opinion, the Committee was not paying enough attention to the problem of child labour; yet ILO must be aware that the Committee played only an auxiliary role in that respect, even though it

fulfilled a sort of political function by reporting to the General Assembly. At times ILO seemed to adopt slightly extremist positions in its desire to eliminate child labour as far as possible and as soon as possible. In his opinion, however, the problem in certain market-economy countries, as well as in countries in transition and poor developing countries, was not at present one of doing away with child labour, but of situating it in an extremely strict legal framework applicable to both the formal and informal sectors. Members of the Committee invariably asked delegations about the child labour legislation in force in States parties and particularly whether their legislation called for regular medical examinations and ensured possibilities of education while the child was working and decent wages. For that reason it might be useful for a member of the Committee to follow ILO activities more closely in that area and participate in the many meetings devoted to the question, even if problems of financing and availability arose.

10. Mrs. OUEDRAOGO said it would be well to have more information about the new proposed convention as well as the results of the questionnaire to which the ILO representative had referred. She would also appreciate additional details about the problems encountered in connection with the participation of children in the preparation of the new convention.

11. Mr. PICARD (International Labour Organization) wished to reassure Mr. Kolosov about ILO's interest in the Committee's work relating to child labour which, in his view, far from being minimal was of the greatest importance. Moreover, the Convention on the Rights of the Child was, in ILO's opinion, an important instrument in that its text - which had been ratified by almost all countries - covered all aspects of the rights of the child. He added that Mr. Tapiola, Deputy Director-General of ILO, had expressed ILO's satisfaction with the Committee's cooperation and work.

12. Referring to the question of information, he said that ILO gleaned a large amount from the reports transmitted by States parties on the implementation of the Convention on the Rights of the Child. The reports submitted to the Committee were not more specific than those submitted to ILO, although they were often more pertinent since they were not prepared exclusively by bodies subordinate to ministries of labour, and non-governmental organizations (NGOs) also participated actively in their preparation. In that connection he assured members of the Committee that ILO would transmit any information that he considered to be relevant to its work.

13. On the matter of future ILO instruments, he said that the proposed convention was aimed at the immediate elimination of extreme forms of child labour and recalled that a questionnaire had been sent to States so as better to determine what could be eliminated as a matter of priority. However, agreement must first be reached on the meaning of the term "extreme forms of child labour", which assumed different forms in different countries, and on the elimination of such slavery within the meaning of the 1956 Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery. The second type of extreme form of exploitation of child labour involved illicit activities (the sale of drugs, the production of pornographic shows or material, the sale of children for prostitution, etc.). ILO was rather hesitant about embarking upon that path, but member States had expressed their determination to deal with such

activities by drawing up new instruments. Lastly, the third type of extreme form of exploitation of child labour involved all jobs that were hazardous for children, to their health and their development, or work that prevented children from attending school in the normal way. In the light of those three types, States which ratified the proposed convention would be under an obligation to take all necessary steps to eliminate such extreme forms of child labour and also to impose appropriate criminal sanctions. They would, moreover, have to specify which authorities were responsible for curbing those extreme forms of child labour. In that respect there was no question of penalizing children but of emphasizing the responsibility of persons making use of child labour. Lastly, international cooperation had to be established on the subject, and not only at the judicial cooperation or IPEC level. He explained that States wanted the text of the convention to be extremely short so that it could be incorporated easily into existing instruments. The recommendations already drawn up concerned work that could be hazardous for children, and a list of criteria and examples of international cooperation had been prepared.

14. Referring to the question of participation, he said that ILO's international conventions were generally addressed to States, although their distinctive feature was that States were requested to consult ILO's traditional interlocutors, namely, employers' and workers' organizations, whose role was clearly defined under ILO's Constitution, as well as the NGOs recognized by its Constitution. Moreover, the consultation of children raised both technical and political problems, because children who worked had no representative organization and also because child labour was not recognized by most legislation so that children were "invisible" and therefore unable to organize. Furthermore, employers' and workers' organizations were extremely jealous of their prerogatives and opposed the arrival of "outsiders" who might question their representativeness. He emphasized that participation presented a real problem, giving as an example the fact that, when the Home Work Convention was being drawn up, NGOs had been unable to participate fully in the work being done and had had to use trade unions as intermediaries. However, it was impossible for the time being to amend the ILO Constitution in that area.

15. The CHAIRPERSON asked whether ILO assumed that the Committee on the Rights of the Child would participate actively in the Oslo Conference and if so, how?

16. Mr. PICARD (International Labour Organization) explained that the Oslo Conference was to focus on practical activities and programmes designed to curb extreme forms of child labour and at the same time aim at the broader objective of abolishing child labour. The experience acquired by the Committee on the Rights of the Child during the six years of its existence should enable it to throw a certain amount of light on those matters, and the Conference should offer an opportunity of comparing apparently different points of view.

17. Mr. KOLOSOV expressed the hope that the Committee's support team would maintain permanent contact with ILO.

18. Mrs. THEYTAZ-BERGMAN (NGO group for the Convention on the Rights of the Child) informed members of the Committee that a study covering 500 governmental and non-governmental organizations was being carried out in connection with the preparation of the new ILO convention on extreme forms of child labour and should be ready by the end of September 1997. Referring to the Committee's methods of work, she regretted that it had examined a large number of topics and taken important decisions at closed meetings; the Committee's partners had thereby been deprived of official consultation machinery and she hoped that the decisions taken at its closed meetings would be made known at a public meeting. Lastly, she suggested that NGOs and the Committee should hold an unofficial meeting on the Committee's methods of work in January 1998.

19. Mrs. MALUWA (High Commissioner's Plan of Action to support the implementation of the Convention) said it would be useful if the Committee and ILO were to elaborate a joint strategy to ensure the participation and consultation of children at the national level in future.

REVIEW OF DEVELOPMENTS RELEVANT TO THE WORK OF THE COMMITTEE (agenda item 5)

20. Mr. KOLOSOV said he had participated in two important events since the Committee's fifteenth session. The first had been the summer university for the rights of the child, held at Gand (Belgium), where he had made two statements, one on his own behalf and the other on behalf of Mrs. Karp. The second event, in which he had participated with Miss Mason, was a special consultation on follow-up procedures and the preparation of reports, held at Suva (Fiji), at the invitation of the Child's Rights Asian Network and UNICEF. That meeting, organized for the countries of the South Pacific region, had enabled members of the Committee to clarify various aspects of the Convention and to take note of the difficulties encountered by States parties in the preparation of their reports. Such difficulties were due mainly to a lack of experience, since a large number of the countries concerned were not parties to other international human rights instruments. The questions raised had dealt with the composition of drafting teams and the role played by various administrations, NGOs and children in the drafting process, national machinery for the preparation of reports and follow-up procedures, and the role of the media in the promotion of children's rights. Child labour had also been discussed. The Committee's representatives had held bilateral talks with the delegations of all countries on their more specific problems. Certain participants had suggested that the Committee or pre-sessional working group should meet in one of the countries of the South Pacific region to examine six or seven reports of the countries of that region, but had been informed that a solution of that nature was not feasible because only rarely did the Centre for Human Rights receive several reports from the same region at the same time.

21. He had taken advantage of his trip to Fiji to proceed to the Solomon Islands where he had visited a Red Cross centre for handicapped children and discussed the future policy of the new Government with members of Parliament, officials of the Ministry of Foreign Affairs and representatives of the National Advisory Council for the Rights of Children. Such visits were of importance since they enabled members of the Committee to acquaint themselves with local realities.

22. The CHAIRPERSON added that during their trip to Fiji, Mr. Kolosov and she had visited a home for young girls administered by an NGO, as well as a correctional prison for adolescents managed by the Government, in which living conditions left much to be desired. She had also visited Samoa, where she had found a close-knit society structured around religious, family and community values, and had noted in particular that each village had a primary school. She had met the Secretary for Foreign Affairs, the Commissioner of Labour, the Director of Women's Affairs and the Director of Health, with whom she had discussed questions connected with child labour and prostitution involving children. Lastly, she had proceeded with Mr. Kolosov to Australia, where they had met the Attorney-General of Canberra and where, in the Senate, they had done their best to reply to questions in the minds of Australians concerning the impact of the Convention on matters such as parental responsibility and corporal punishment.

23. Mrs. KARP informed members of the Committee that she had participated in a Conference held at the University of York, Toronto (Canada), from 22 to 24 June 1997, entitled "Enforcing international human rights law: the treaty system in the twenty-first century". The Conference, in which many persons active in the field of international human rights law had participated, had sounded a note of warning since some participants considered that the entire system was in danger of collapsing. For her part, she had described the nature of the follow-up system established by the Committee on the Rights of the Child which involved assisting countries in the preparation of periodic reports and in the application of the Convention. The Conference had resulted in the adoption of a series of recommendations on ways of strengthening human rights protection machinery, particularly by improving cooperation with NGOs. She would transmit the document to the secretariat for information. She had also participated in a novel ceremony held in the small town of Ashdod (Israel) at which the municipality had "ratified" the Convention and undertaken to observe 10 commandments based on that instrument.

24. Mrs. OUEDRAOGO said she had participated in a technical seminar organized by UNICEF's regional office for western and central Africa at Abidjan (Côte d'Ivoire) from 15 to 18 September 1997. That seminar, under Mrs. Belembaogo, had been attended by about 50 representatives of various international governmental and non-governmental bodies and had been intended to offer participants technical and practical assistance in the preparation of national reports; the various difficulties encountered by countries had been reviewed and specific and planned solutions proposed. Discussions had centred on machinery for the protection of human rights and the role of the various parties concerned, as well as on procedures for the preparation and examination of the reports submitted to the Committee on the Rights of the Child. They had been followed by practical work which had enabled participants to acquaint themselves with the Committee's role and methods of work. Some participants had expressed the view that the general guidelines on the form and content of reports were too vague and that the Committee sometimes behaved like a court. Questions had also been raised about the pace at which reports were examined, reports in abeyance and the time that elapsed between the submission of the report and its examination, as well as about the number of the Committee's members. By the end of the meeting it had become obvious that most of the countries of the region experienced difficulties in having the principles embodied in the Convention accepted, and that the very

concept of the "rights" of the child went down better in the framework of the African Charter of the Rights of the Child, which associated the concepts of rights and obligations, so that Governments had been more inclined to ratify the latter instrument. In general, the Committee on the Rights of the Child had been requested to help improve the preparation of reports by providing more information about the content of the guidelines in an explanatory note. In conclusion, she emphasized that such meetings were doubly useful, in that they gave Governments a better idea of what the Committee was doing and also provided the latter a better understanding of the difficulties encountered by Governments.

25. Mrs. PALME said she had participated in an event organized by a theological institute in Stockholm at which she had presented an introduction to the first course on the Convention on the Rights of the Child, as well as in a round table on human rights organized at the University of Lund by United Nations Associations, Amnesty International and student organizations. In her view the extensive participation of those bodies was a particularly encouraging sign.

26. Mr. RABAH described his activities during the previous few months in Lebanon as Chairman of the Union for the Protection of Minors, as judge and, of course, as a member of the Committee. He had worked with the Parliamentary Commission on the Rights of the Child on the improvement of legislation, and particularly on the question of the minimum age for admission to employment (which was to be raised from 8 to 13 years), and on a new provision under which, subject to certain conditions, sentences entailing placement in a correctional prison would no longer appear in the court records of minors, the idea being to facilitate their reintegration into society.

27. He had also had discussions with officials of the Lebanese Ministries of Justice and the Interior about the training of police officers, judges and lawyers and the need to provide them with a better understanding of the Convention. In Beirut, he had talked with UNICEF officials about ways of providing lecturers in law faculties with training in human rights, including the rights of the child.

28. The CHAIRPERSON said that she wished to give an account of the Eighth Meeting of Persons Chairing the Human Rights Treaty Bodies which had been held at Geneva during the week preceding the beginning of the Committee's session. The persons chairing treaty bodies had met Mrs. Robinson, the new High Commissioner for Human Rights, the Chairmen of human rights commissions and committees, such as Mr. Somol, Chairman of the Commission on Human Rights, and Mrs. Warzazi, Vice-Chairman of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, as well as members of the bodies and NGOs concerned. A large number of topics had been discussed on that occasion: the treaty bodies had been encouraged to establish closer relations with the media at the Palais des Nations, for example by remaining in contact with the press throughout their sessions, and methods of work and cooperation with United Nations bodies had been reviewed. Moreover, in exploring various possibilities of reforming treaty bodies, the Meeting had examined the conclusions and suggestions submitted on the subject by the Chairman of the Committee on Economic, Social and Cultural Rights, which had advocated the regrouping and simplification of international human rights treaty bodies; the view she had expressed on the subject, as Chairperson of the Committee on the

Rights of the Child, was that, after having worked for so many years to gain recognition of and to highlight the rights of the child, it would be unfortunate if they were to become merged once again with human rights in general.

29. The ratification of international instruments by all countries had also been discussed; the problem did not arise for the Committee on the Rights of the Child but was a source of concern for other Committees. North Korea had threatened to denounce the International Covenant on Civil and Political Rights, and participants in the Meeting had given thought to the question whether a State could denounce an instrument to which it was a party. They had also discussed the question of States parties which failed to submit their reports and how treaty bodies coped with that situation. Three committees had apparently acquired the habit of examining the situation in countries which should have submitted a report but had failed to do so or when the delegation of a State party failed to turn up. Unfortunately, owing to its already very heavy programme of work, the Committee on the Rights of the Child was not at present in a position to examine the situation in countries which had not submitted a report. Yet States which complied scrupulously with their obligation to submit a report should admittedly not be exposed to a greater extent to possible criticism by the international community than States which failed to submit their reports.

30. The persons chairing treaty bodies had also looked into the difficulties encountered by small States in submitting a report and, above all, in sending a delegation. They had given thought to ways of improving the observations and conclusions of committees, which should be clear and as specific as possible, and had expressed the hope that the custom of holding an annual meeting of persons chairing treaty bodies with the United Nations Secretary-General would be resumed. They had also discussed the question of the training of the staff of the Centre for Human Rights and relations between various bodies and NGOs, and whether it would be desirable for committees which met only at Geneva to hold sessions in New York in order to obtain different and broader coverage by the media. Moreover, it had been considered that, for reasons of economy, committees should as far as possible work only in the languages of their members and according to the needs of experts. Lastly, the Meeting had also discussed the independence of experts, a problem which arose in certain committees during the examination of the report of a State of which one of the experts was a national. For political reasons, and because members of a committee had a difficult and engrossing task, it was recommended that experts elected to international human rights treaty bodies should be political personalities of the highest order.

31. Mrs. KARP, reverting to the question of States which failed to fulfil their obligation to submit reports, wondered whether the Committee might not make a distinction between States which did not submit a report and those which prepared a report but did not send a delegation.

32. The CHAIRPERSON said that that question would be re-examined in due course at a later meeting.

The discussion covered in the partial summary record of the meeting ended at 12.25 p.m.